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**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

PATRICIA WRIGHT,) Case No.
)
Plaintiff,) COMPLAINT FOR VIOLATION
) OF THE PENNSYLVANIA FAIR
vs.) CREDIT EXTENSION
) UNIFORMITY ACT,
DELMARVA CAPITAL SERVICES,) PENNSYLVANIA UNFAIR TRADE
LLC,) PRACTICES AND CONSUMER
) PROTECTION LAW, AND
Defendant.) FEDERAL FAIR DEBT
_____) COLLECTION PRACTICES ACT

I. INTRODUCTION

1. This is an action for damages brought by an individual consumer for Defendant's violations of the Pennsylvania Fair Credit Extension Uniformity Act and Pennsylvania Unfair Trade Practices and Consumer Protection Law. Furthermore, Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. §1692, *et seq.* (hereinafter "FDCPA"), which prohibit debt collectors from engaging in abusive, deceptive, and unfair practices.

II. JURISDICTION

2. Jurisdiction of this Court arises under 15 U.S.C. §1692k (d).

III. PARTIES

3. Plaintiff, Patricia Wright (“Plaintiff”), is a natural person residing in Dauphin county in the state of Pennsylvania, and is a “consumer” as defined by the FDCPA, 15 U.S.C. §1692a(3).

4. At all relevant times herein, Defendant, Delmarva Capital Services, LLC, (“Defendant”) was a company engaged, by use of the mails and telephone, in the business of collecting a debt from Plaintiff which qualifies as a “debt,” as defined by 15 U.S.C. §1692a(5). Defendant regularly attempts to collect debts alleged to be due another, and therefore is a “debt collector” as defined by the FDCPA, 15 U.S.C. §1692a(6).

IV. FACTUAL ALLEGATIONS

5. In May 2011 and at various and multiple times prior to the filing of the instant complaint, including within the one year preceding the filing of this complaint, Defendant contacted Plaintiff in an attempt to collect an alleged outstanding debt.

6. On average, plaintiff received from Defendant, more than two collections calls per day, more than ten collections calls per week, and more than twenty collections calls per month.

1 7. Defendant contacted Plaintiff at times and places that were known or
2 should have been known to be inconvenient and with such a frequency as to
3 constitute harassment under the circumstances.
4

5 8. On more than one occasion, including during a voicemail left for
6 Plaintiff on May 12, 2011, Defendant failed to disclose during the communication
7 that the call was from a debt collector attempting to collect an alleged debt.
8

9 9. On more than one occasion, Defendant, including during a voicemail
10 left for plaintiff on May 12, 2011, Defendant failed to disclose the true identity of
11 the caller and the true identity of the company authorizing the call.
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13
14 **COUNT I: VIOLATION OF THE PENNSYLVANIA FAIR CREDIT**
15 **EXTENSION UNIFORMITY ACT**

16 10. Plaintiff hereby incorporates all facts and allegations set forth in this
17 Complaint by reference as if fully set forth at length herein.
18

19 11. The Pennsylvania Fair Credit Extension Uniformity Act
20 (“PaFCEUA”) 73 P.S. § 2270.1 *et seq.* prohibits harassing and deceptive conduct
21 by creditors while engaging in the practice of collecting a debt from consumers.
22

23 12. Section 2270.5 of the PaFCEUA allows consumers to recover
24 damages against creditors who engage in unfair and deceptive debt collection
25 practices under the Pennsylvania Unfair Trade Practices and Consumer Protection
26 Law (“PUTCPL”).
27

28 13. Plaintiff is a “consumer” as defined by § 2270.3 of the PaFCEUA.

1 14. Defendant is a “creditor” as defined by § 2270.3 of the PaFCEUA.

2 15. Defendant’s conduct violated the PaFCEUA in multiple ways,
3
4 including but not limited to:

- 5 a) Causing Plaintiff’s telephone to ring repeatedly or
6 continuously with intent to harass, annoy or abuse Plaintiff;
7
8 b) Communicating with Plaintiff at times or places which
9 were known or should have been known to be inconvenient
10 for Plaintiff;
11
12 c) Repeatedly contacting Plaintiff at his/her place of
13 employment after being informed that such calls are
14 inconvenient to Plaintiff and violate the policy of
15 Plaintiff’s employer;
16
17 d) Falsely representing the character, amount, or legal status
18 of Plaintiff’s debt;
19
20 e) Using false, deceptive, or misleading representations or
21 means in connection with collection of a debt;

22 16. As a result of the above violations of the PaFCEUA Plaintiff
23 suffered and continues to suffer injury to Plaintiff’s feelings, personal humiliation,
24 embarrassment, mental anguish and emotional distress, and Defendant is liable to
25 Plaintiff for Plaintiff’s actual damages, statutory damages, and costs and
26 attorney’s fees.
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**COUNT II: VIOLATION OF THE PENNSYLVANIA UNFAIR TRADE
PRACTICES AND CONSUMER PROTECTION LAW**

17. Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.

18. Defendant's conduct as set forth above constitutes an unfair or deceptive practice within the meaning of the Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 P.S. §201-1, et seq.

19. Defendant's violation of the Pennsylvania Unfair Trade Practices and Consumer Protection law has caused Plaintiff to suffer the damage set forth hereinabove.

20. Plaintiff is entitled to triple damages and attorneys' fees as a result of Defendant's conduct, pursuant to 73 P.S. §201-9.2.

**COUNT III: VIOLATION OF FAIR DEBT
COLLECTION PRACTICES ACT**

21. Plaintiff reincorporates by reference all of the preceding paragraphs.

22. Defendant's conduct violated the FDCPA in multiple ways, including but not limited to:

- a) Communicating with Plaintiff at times or places which were known or should have been known to be inconvenient for Plaintiff (§1692c(a)(1));

- b) Causing Plaintiff's telephone to ring repeatedly or continuously with intent to harass, annoy or abuse Plaintiff (§1692d(5));
- c) Failing to notify Plaintiff during the initial communication with Plaintiff that the communication was an attempt to collect a debt and any information obtained would be used for that purpose (§1692e(11));
- d) Failing to notify Plaintiff during each collection contact that the communication was from a debt collector (§1692e(11));
- e) Failing to provide Plaintiff with the notices required by 15 USC §1692g, either in the initial communication with Plaintiff, or in writing within 5 days thereof (§1692g(a));
- f) Failing to disclose the caller's individual identity in a telephone call to Plaintiff (§1692d(6)); and
- g) Failing to disclose Defendant's true corporate or business name in a telephone call to Plaintiff (§1692d(6)).

23. As a result of the above violations of the FDCPA Plaintiff suffered and continues to suffer injury to Plaintiff's feelings, personal humiliation, embarrassment, mental anguish and emotional distress, and Defendant is liable to Plaintiff for Plaintiff's actual damages, statutory damages, and costs and attorney's fees.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. Declaratory judgment that Defendant's conduct violated the FDCPA;
- B. Actual damages;
- C. Statutory damages;
- D. Costs and reasonable attorney's fees; and,
- E. For such other and further relief as may be just and proper.

PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY

Respectfully submitted this 17th day of October, 2011.

By: /s Cynthia Levin
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